APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/607,430	06/27/2000	Guangyu Zhao	CISCO-2402	7891

7590	05/24/2005

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EXAMINER
ZAND, KAMBIZ

ART UNIT	PAPER NUMBER
2132	

DATE MAILED: 05/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Advisory Action *** Before the Filing of an Appeal Brief***	09/607,430	ZHAO ET AL.
	Examiner	Art Unit	
	Kambiz Zand	2132	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>09 May 2005</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: <u>1-27</u>.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.

Kambiz Zand 05/21/05

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments assertin that Chen do not disclose "intercepting incoming files before they reach a file sytem" is not persuasive for the following reasons:
a) Examiner refers Applicant to the fact that Chen is an improvement over prior art such as ScanMail & InterScan VirusWall cited on col.4, lines 1-30 and 56-67. Therefore Chen disclose the act of interception before the file system in addition to other internal scanning of the files based on the following:
Chen do disclose the act of interception of files as demonstrated on col.6, lines 54-58 where all types of files, messages, broadcasts and communications are being scanned by agent 110; or col.7, lines 32-35 where agent 110 monitors files for any type of attachments; agent 110 corresponds to Applicant's interceptor as interpreted by examiner in the last office action.

2) The question of timing of when the interception is being done is disputed by Applicant, where Applicant argues that Chen do not disclose interception of files before they reach a file system (emphasized added).

Examiner refers Applicant to Chen et al. col.6, lines 58-63 where "e-mail messages" is being used to describe all types of files, messages, broadcasts and communications used within, sent from or received by a mail server. Therefore Examiner considers any reference to e-mail messages corresponds to incoming files of Applicant's claims limitations. As an example" scanning of all e-mail messages corresponds to scanning of all incoming files as it was recited in the non-final office action.
Chen et al. col.5, lines 54-56 refer to centralized virus detection operations at the server level. Therefore Examiner considers any reference to e-mail server or other name server by Chen et al corresponds to "networked server" of Applicant's claim limitation as it was recited in the non-final office action.

Applicant's claim language state interception before files are transferred to a file system of the server. Chen et al disclose on col.6, lines 54-61 and fig.2 interception of files sent to mail server by agent 110

Chen et al abstract disclose detection and removing of virus before being transferred to the message system (file system) when it disclose "in addition, e-mail messages received over the internet can be scanned" in addition to within the network. Chen discloses "the agent is located at the server computer and provide an interface between the anti-virus module and the message system". Therefore any message received by the server is subjected to virus detection by the agent 110 and then be received by the message system or file · system.

Examiner However would reconsider if the Applicant can makes a persuasive arguments that Chen's system and method is not an improvement over the prior program cited and it teaches away from such programs.
In conclusion examiner considers the act of interception is being done by the interface before the file reaches the mail system and also and also detection and removal of the virus within the system of file system.